

**CITY OF SYLVAN LAKE
OAKLAND COUNTY, MICHIGAN**

ORDINANCE NO. 321

**AN ORDINANCE TO AMEND THE CITY OF SYLVAN LAKE CODE OF
ORDINANCES TO CREATE A NEW CHAPTER 17, ENTITLED
"NOISE," IN ORDER TO ESTABLISH COMPREHENSIVE
REGULATIONS AND STANDARDS RELATING TO NOISE AND
NOISE-RELATED NUISANCES.**

THE CITY OF SYLVAN LAKE ORDAINS:

Section 1. Ordinance Amendment

That the Sylvan Lake Code of ordinances is hereby amended as follows to add a new Chapter, Chapter 17, entitled "Noise," to read as follows in its entirety:

Chapter 17. Noise

Article I. In General.

Sec. 17-1. Purpose and Intent.

This Chapter is intended to protect public safety, health and welfare by establishing regulations concerning noise in order to:

- (a) Protect the public from excessive noise, which can pose a serious hazard to public health and welfare.
- (b) Protect city residents' right to an environment free from excessive noise that may degrade their quality of life.

Sec. 17-2. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) **"Commercial area"** or **"Commercial use,"** means any parcel of land zoned O-1, C-1, C-2, CS, or P.
- (b) **"Decibel (dB)"** means a unit measure of sound level.
- (c) **"Industrial area"** or **"Industrial use,"** means any parcel of land zoned I-1 or PTD.
- (d) **"Noise"** means any sound that annoys or disturbs humans or causes or tends to cause an adverse psychological or physiological effect on humans.
- (e) **"Noise disturbance"** means any sound that:
 - (i) Disturbs a reasonable person of normal sensitivities; or

(ii) Exceeds the sound level limits set forth in Section 17-101(b) below

- (f) **"Residential area"** or **"Residential use,"** means any parcel of land zoned R-1, R-2, or R-3.
- (g) **"Sound"** shall be broadly interpreted to mean any sound, noise, music, voice, or any other forms of noise or sound, whether generated electronically, by any person, an acoustic instrument(s) or device(s), or any other method of sound creation or transmission
- (h) **"Sound level"** means the weighted sound pressure level obtained by the use of a sound level meter. Audible sound occurs over a wide frequency range, from approximately 20 Hertz (HZ) to 20,000 Hz. Human hearing responds differently to lower frequency (pitch) sounds, so they sound equally as "loud" as higher frequency sounds with a much higher decibel level. To account for this variation in frequency and sensitivity of human hearing, a weighting is applied to sound level measurements, called "A-weighted" decibels, or dB(A).

ARTICLE II. PERFORMANCE STANDARDS

Sec. 17-101. Noise

(a) **General prohibition.** It shall be unlawful and a violation of this Chapter to make, cause, or allow the making of any sound that causes a noise disturbance, as defined herein.

(b) **Sound level limits.** In addition to the prohibition in subsection (a) above, and except as otherwise provided in this section, no person shall operate or cause to be operated any source of sound in such a manner as to create a sound level that exceeds the decibel or frequency limits set forth for the receiving land use category in Table A and Table 2 when measured at or within the property boundary of the receiving land use.

TABLE A
MAXIMUM PERMITTED NOISE LEVELS

Use	Time	Sound Level (A-Weighted) Decibels Db(A)
Residential	7:00 a.m. to 7:00 p.m.	60
	7:00 p.m. to 7:00 a.m.	55
Commercial	7:00 a.m. to 7:00 p.m.	75
	7:00 p.m. to 7:00 a.m.	70
Industrial, where all adjacent properties are used for industrial/commercial purposes	Anytime	75
Industrial, where any adjacent properties are used for residential purposes	Same as Residential	Same as Residential

(c) **Background noise.** Where existing background noise exceeds the maximum permitted levels specified in Table A, the noise caused or created by a specific operation or activity may exceed the levels specified in the table, provided that the sound level on property adjacent or in close proximity to the lot or parcel on which the operation or activity is located does not exceed the background noise

level. For purposes of this subsection, background noise shall mean noise being produced by permitted uses conducted in a legally-accepted manner from all sources other than those occurring on the lot or parcel on which the operation or activity is located. Background noise levels shall be determined by measurement at substantially the same time and location as the noise levels caused or created by the complained-of operation or activity.

(d) *Intermittent or other unreasonable sounds.* Intermittent sounds or sounds characterized by pure tones might be a source of complaints, even though the measured sound level does not exceed the permitted level in Table A. Such sounds shall be considered to be a noises disturbance and shall be prohibited when found to be unreasonably loud or to unreasonably interfere with the peace and comfort of others. In making such determination, the following shall be considered:

- (1) The proximity of the sound to sleeping facilities;
- (2) The nature of the use from which the sound emanates and the area where it is received or perceived;
- (3) The time (day or night) the sound occurs; and
- (4) The duration of the sound.

(e) *Exemptions.* Noise resulting from the following activities shall be exempt from the maximum permitted sound levels, provided such activity occurs in a legally-accepted manner:

- (1) Construction activity (see section 17-102);
- (2) Emergency work performed at the site of an emergency;
- (3) Street sweeping, snow plowing and salting;
- (4) Warning devices necessary for public safety, such as police, fire, and ambulance sirens, tornado and civil defense warning devices, and train horns;
- (5) Lawn care and yard maintenance that occurs between 7:00 a.m. and 10:00 p.m.;
- (6) Outdoor school and playground activities when conducted in accordance with the manner in which such spaces are generally used, including, but not limited to, school athletic and school entertainment events;
- (7) Bells or chimes of churches or other places of worship;
- (8) The unamplified human voice, except for yelling, shouting, whistling, hooting, or generally creating a racket such that it creates a noise disturbance during the nighttime hours (11:00 p.m. to 7:00 a.m.) in a residential area other than a time of emergency; and
- (9) Public works maintenance, repair, or improvement projects being conducted by or on behalf of public agencies between the hours of 7:00am and 10:00pm.
- (1) Sounds produced by consumer fireworks, but only when discharged between the hours of 8:00 am and 12:00 Midnight on the day before, the day of, and the day after a National holiday, or between the hours of 12:00 Midnight and 1:00 am on New Years' Day, as provided in Section 38-333 of this City Code.

(i) *Prohibited acts.* The following acts are violations of this section, subject to enforcement through criminal, civil, and administrative means:

- (1) *Horns and other signal devices.* The sounding of any horn or signal device on an automobile, motorcycle, bus or other vehicle, except as a danger signal or traffic warning.
- (2) *Operation of vehicles.* The use of any motor vehicle that is not reasonably maintained and that causes noise that would be likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area. This shall include operation of a vehicle with a motor exhaust system that is in disrepair in such a way that the noise emitted by said motor's exhaust system is increased above that emitted by the exhaust system with which said motor came originally equipped from the manufacturer.
- (3) *Amplified sound.* The playing of any electronic device used for the amplification of sound located inside or outside, which measures five (5) dB(A) or more above ambient levels on adjacent properties, including the public right-of-way.

- (4) *Alarms.* Operating any electronic theft or burglar alarm which sounds an audible signal without an automatic shutoff device to prohibit the audible signal from sounding continually for more than five (5) minutes or the intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle, or similar stationary emergency signaling device except in the following circumstances:
 - i. Existence of an emergency.
 - ii. Testing the device, not to exceed four (4) minutes in an hourly period, unless approved by the City Manager when there is no reasonable alternative to exceeding four (4) minutes of testing and the testing is required by state or federal laws, rules or regulations.
 - iii. The sounding of a properly maintained car alarm subject to paragraph (3) of this section.
- (5) *Solid waste collection.* The loading or unloading of a solid waste compacting vehicle, solid waste processing vehicle, solid waste collection vehicle, or recycling collection vehicle outside of an insulated building in any residentially used area except during the hours of 7:00 a.m. and 10:00 p.m.
- (6) *Noise control device.* Removing or rendering inoperative any noise control device or the design of a product having those devices, by any person other than for purposes of maintenance, repair or replacement.
- (7) *Operation of machinery.* Operating any machinery, equipment or mechanical device so as to create a noise disturbance, except as otherwise expressly authorized in this Chapter.

Sec. 17-102. Construction activity, noise.

- (a) It shall be unlawful for any person to cause noise louder than the noise normally present at that location when no construction is in progress, by excavation, demolition, alteration or repair of any building, street, highway or parking area, except between the hours of 7:00 a.m. and 7:00 p.m., unless as otherwise allowed by express permission in a permit for such construction work. Where no permit is necessary, the above hours shall apply.
- (b) Construction and/or building activity on Sundays and/or legal holidays is prohibited except when necessary for the preservation of the public health, safety and welfare.
- (c) A permit may be obtained from the City Manager to construct, demolish, alter or repair any building, or to excavate a street or highway, on Sundays, or other days between the hours of 7:00 p.m. and 7:00 a.m. when the building official determines that it is necessary to continue work beyond the limits set in (a) or (b) above.

Sec. 17-103. Vehicle stereo noise or vibrations.

It shall be unlawful for any person to be in possession or control of a parked or moving vehicle with a stereo, disc player, cassette player, speakers, or other similar equipment that is producing sound on a street, driveway, publicly patrolled parking lot or public place at or with a level, volume, intensity, frequency, or other attribute that is perceptible at a distance of fifty (50) feet or more, either by hearing the sound by the human ear or by feeling the sound in the form of vibrations associated therewith.

When sound violating this section is produced the motor vehicle's owner, if present when the violation occurs, is in violation of this section. If the motor vehicle's owner is not present at the time of the violation, the person in charge or control of the vehicle at the time of the violation is in violation of this section. In addition to an owner or a driver, any person who controls or assists with the production of sound violating this section is in violation of this section.

This section shall not be applicable to sound emanating from emergency vehicles, ice cream vending vehicles, or publicly sponsored or permitted concerts, sporting events, activities, or gatherings.

Sec. 17-104. Outdoor Implements.

Any outdoor implement such as a power lawn mower, snow blower, power hedge clipper, power saw, leaf blower, or trimmer shall be operated only between the hours of 8:00 a.m. and 9:00 p.m. No implement shall be operated without a muffler by any person.

Sec. 17-105. Noisy animals.

No person shall keep or harbor any animal, including but not limited to any dog, cat, bird or other animal which emits loud or shrill noises, which by loud or frequent or habitual barking, howling, yelping or calling shall cause serious annoyance to the neighborhood or to persons passing by upon the streets.

Sec. 17-106. Air conditioning units.

The location of air conditioning units shall be as set forth in Section 78 - 610(e).

Sec. 17-107. Unloading.

It shall be unlawful for any person to unload materials, goods or other merchandise by the use of motorized equipment, metal-tired hand trucks or racks, conveyors equipped with metal rollers, or other types of equipment which have not been designed to control noise between the hours of 11:00 p.m. and 7:00 a.m.

Sec. 17-108. Special permit

The City Manager may grant a special permit for the generation, operation, or use of sound that would otherwise violate this ordinance when the following conditions are met:

- (1) The application contains information that demonstrates that bringing the source of sound or activity for which the special permit is sought into compliance with this Chapter would constitute an unreasonable hardship on the applicant, on the community, or on other persons., and
- (2) Such relief would be within the spirit and intent of this ordinance, would not adversely affect the public health, safety, and welfare, and would not be materially injurious to surrounding properties and improvements.

Applicants for a permit may be required to submit any information the City Manager may reasonably require. In granting or denying an application, the City Manager shall place on public file a copy of the decision and the reasons for denying or granting the permit. The permit shall be granted by notice to the applicant containing all necessary conditions, including the time limit on the permitted activity. The permit shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the permit shall terminate it and subject the applicant to the provisions of this Chapter regulating the source of sound or activity for which the permit was granted.

Sec. 17-109. Penalties.

(a) Determination of Violation. Where a determination of violation to this article can reasonably be made by the city, using equipment and personnel normally available to the city or obtainable without extraordinary expense, such determinations shall be so made before notice of violation is issued.

(b) Additional Evidence. Where determination of violation of noise standards will likely entail the use of highly skilled personnel and expensive or unusual instrumentation not ordinarily available to the city, costs of the determinations will be charged against those responsible when a violation exists in addition to such other penalties as may be appropriate. The city is hereby empowered to require the owner or operator of a noise generating use to submit such data and evidence as may be deemed essential to permit an objective determination of a violation of performance standards.

(c) Civil Infraction Violation. Any violation of the noise standards of this article shall be considered a violation and shall be responsible for a civil infraction violation, subject to the fines and penalties set forth in Chapter 1, Section 1-7 of the City of Sylvan lake Code of Ordinances. Every day on which a violation exists shall constitute a separate violation and a separate offense.

(d) Cease and Desist. The City Manager or Code Enforcement Official shall have the authority to issue a cease and desist order in the form of a written notice for the violation of any provisions of this article.

(e) Other Remedies. The city may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin or abate any source of noise that violates this article. The rights and remedies provided in this article are cumulative and are in addition to all other remedies provided by law.

Section 2. Repealer.

Any and all Ordinances and resolutions heretofore adopted inconsistent herewith are hereby repealed to the extent that the provisions thereof are inconsistent with the provisions hereof.

Section 3. Severability.

If anyone (1) or more provisions of this Ordinance shall ever be held by any Court of competent jurisdiction to be invalid or unenforceable for any reason, the remaining provisions hereof shall nevertheless be continued in full force and effect, it being expressly recited and declared that such remaining provisions would have been enacted despite the invalidity of such provision or provisions so held to be invalid.

Section 4. Savings.

All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

Section 5. Effective Date.

The provisions of this Ordinance are hereby ordered to take effect ten (10) days after adoption by the Sylvan Lake City Council.

Section 6. Enactment.

This Ordinance is declared to have been enacted by the City Council of the City of Sylvan Lake at its meeting duly called and held on the 28th day of May, 2014, and shall be given publication in accordance with applicable law.

Ayes: Lorenz, Meskin, Zubrzycki, Cassar, Dzenko

Nayes: None

Abstentions: None

Absent: None

Adopted: May 28, 2014

Published: June 4, 2014

Effective: June 7, 2014

Posted: May 29, 2014

Locations: City Hall, Community Center, Ferndale Park

I, Dennise Dryden, City Clerk for the City of Sylvan Lake, Michigan, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Sylvan Lake City Council of the City of Sylvan Lake at a Regular City Council Meeting, held on May 28, 2014, the original of which is on file in my office.

I have hereunto affixed my official signature this 29th day of May, 2014.

Dennise Dryden, City Clerk
City of Sylvan Lake

